CAPT. CARTER'S DEFENCE. SAYS HE IS INNOCENT AND ASKS FOR JURY TRIAL.

Wayne McVeagh, the Captain's Counsel, Assails the Evidence for the Prosecution, and Asserts the Unfitness of a Military Court to Deal With Such a Case. WASHINGTON, Aug. 28.-The brief prepared

by Wayne McVeagh on the case of Cant. Oberlin M. Carter has become public. Mr. McVeagh prepared the brief before going to Europe. to Attorney General Griggs in case Mr. Griggs should desire to carry the case to a conclusion before Mr. McVengh's return. Although the brief has been submitted with that understanding it is said that the Attorney-General has agreed that no decision shall be reached until Mr McVeagh shall have made an oral argument before closing the case.

The brief is a pamphlet of ninety octave pages Mr. McVeagh begins with emphatic denials that the friends and counsel of Capt. Carter were pleading with the President for No person, he says, speaking on behalf of Capt. Carter, has ever appealed to the President or any one else for mercy for him. It was not mercy but the recognition of his innecence they demanded. Mr. McVeagh denice with equal heat that any attempt has been made to delay or smother consideration of the case. He calls attention to his own representation, as Capt. Carter's counsel, to the President and Secretary of War that the most satisfactory way to dispose of the case would be to put it before a judge and jury. Thirdly, Mr. McVeagh repudiates the newspaper intimations that the President has been desirous of shielding Capt. Carter. The only questions the President has ever asked regarding the case. he says, are: Was Capt. Carter's trial conducted in accordance with law, and; Is he innocent or guilty?

With regard to the competency of a court-martial to try such a case as that of Capt, Carter the brief says:

A plain man seeking truth would, I think, inevitably conclude that this alleged beinous crime, in its magnitude and gravity, involving as it did two great contracts and the Improvement of two important harbors of the nation, and involving far more than life to those acqueed of it, was sufficient to tax the capacity of the most competent court, even if trained to hear and decide such important and farreaching controversies.

I need not dwell upon the general incom petence of a detail of officers selected ad hoc by the Secretary of War to deal with such questions. It is no derogation from the character of a military officer to say that his training distinctly disqualifies him to deal with important questions of law and fact involving large sums of money and presenting complicated and difficult questions of evidence such as are so frequently presented in the voluminous record of this case. Indeed, it is not stating the case too strongly to say that it would not be easy to select an equal number of high-minded gentlemen from any other walk of life ess competent to deal with the propositions this case presents."

Mr. McVeagh charges that along with the serious accusations that Capt. Carter conspired with Government contractors to rob the United States of \$575,740000 in July, 1897, a lot of confusing and petty accusations have been dragged into the case with the object of misleading the court martial. "It has certainly the look," he says, "of having been done with the sole purpose of confusing the minds of the officers detailed to try the case, and prejudicing them against Capt. Carter when considering the grave and important crime first charged against him; for it is well known that no tramp arrested upon the highway could be tried at the same time for two such wholly different offences, and for the simple reason that any such joining of offences has always been known to be likely to result in a miscarriage

To this is added the comment that most of these specified trivial charges were barred by the statute of limitations. It would have been almost impossible for Capt. Carter to disprove them after the lapse of time since they were said to have occurred and the statute was pleaded. "Why," asks Mr. Mc-Veagh, "should a prosecutor indict an offifor offences which the prosknew he was not required to answer, unless it was to prejudice the members of the court by requiring the defendant to plead the statute? And this view presses more heavily upon the mind, when it is remembered that the ingenuity of Capt. Carter's prosecutor. required him to plead the statute of limitaons not once or twice only, but sixteen times I cannot doubt that when Capt. Carter had for the sixteenth time raised the bar of the statute between his conduct and inquiry into it preous to Dec. 1805, a majority of those officers

had already decided that he was a guilty man. After amplifying instances in support of this position. McVeagh points out that though these charges were barred by the statute. evidence relating to them was voluminously introduced.

In his analysis of the testimony offered in the case, Mr. McVengh dwells at length on the effort of the prosecution to prove that the contractors for the work in Savannah herbor made tremendous profits, as if such proof were conclusive evidence of a corrupt conspiracy The prosecution diligently strove to pass over he says, the showing of department records tha the contractor's bids recommended by Capt Carter were lower than the average price paid for similar work on twenty-one contracts in neighboring districts. The credibility of the prosecution's principal witnesses is attacked detail by the brief. Their testimony, Mr. MacVeagh says, would be ridiculous were it not in such a grave cause. Extracts from the testimony of one of the witnesses are used to show that the witness is not only a perjurer

but an embezzler. The seizing of Capt, Carters private papers, the handling of them by the members of the court and by other persons, and the refusal to allow the defence make use of such of them as would tend to prove its case, Mr. McVeagh says, were actions so utterly unexcusable and illegal that it is hard for him to review them calmly The brief is filled with strictures on the conduct of the Assistant Judge Advocate General. Col. Thos. F. Barr of which the following is an

"On page 973 is to be found an astonishing statement by the Assistant Judge Advocate General and an astonishing proceeding on his part. He calls the attention of the officers trying the case to an alleged forgery of the name of Edward H. Gaynor, saying: 'I desire to pass these vouchers to each member of the court. The signatures appear so entirely different I would like to have you examine them. There

"In other words, trying Capt, Carter for eriminal conspiracy with the contractors in 1554), he offers his own judgment as to the forgery of the signatures of Edward H. Gaynor and submits the signatures to the inspection of the Court, without any suggestion whatever as to the person he charges with the forgeries how in any view of the case the fact of difference in the signatures could have worked any detriment to the Government, or have been of any value to Capt. Carter, or even within his knowledge, or tend in the remotest degree to prove him guilty of the alleged conopiracy; but it will be readily seen how an in spection of such signatures upon such a suggestion by the assistant Judge Advocate Ger eral would further prejudice the minds of the officers sitting in judgment against the

Mr. McVeagh points out that all the contracts in question were let after twenty-two days of advertising, a period as great as the average period of advertising for similar bids. Great stress is laid upon the fact that in all Capt Carter's private papers, including all his correspondence for years, the prosecution had been able to find no letters that passed between Capt, Carter and the other members of the alleged conspiracy later than Jan. 12, 1801, more than a year before the first contract upon which any susvicion has been cast. In all the letters

found, while some called the attention of the Gaynors and Capt. Greene to opportunities for possible speculation, there is no intime tion in any of them of any idea of taking advantage of the Government in such specula tions. It was proved that every letter he had ever written to or received from either of the contractors, the last of which was in 1891, related to matters in which the Government had no possible pecuniary interest whatever, The letters and the transactions to which they related were all antecedent to Capt. Car. ter's marriage to the daughter of the wealth; Mr. Westcott. It was after his marriage to her that he began to spend money freely, and it was sufficiently proved that Mr. Westcott put all his business in Capt. Carter's hands, and

that Capt. Carter kept his accounts with Mr. Westcott's, indiscriminately. "Perhaps the most painful episode," says the brief, "in a trial full of such painful episodes was that narrated by Mr. Blair of the dis covery by a happy accident in the hands of the Assistant Judge Advocate General of a telegram, abstracted from Capt. Carter's private papers, from the Secretary of War to Capt, Carter, directed to him at the University Club in New York, at the very time the assistant judge advocate general was charging that Capt, Carter had wilfully and corruptly decelved the Secretary of War as to his whereabouts on that occasion by pretending to be in Savannah."

The long list of distinguished engineers who testified in Capt. Carter's favor is rehearsed and contrasted with the best of those who testifled against him, which the brief says includes perjurers and ignorant and biased men whose evidence would not hold for a moment in a court of law.

"The conclusion of the whole matter is this: For the serious errors in law with which the record of this case is fairly saturated, and which worked grievous wrong to the accused, the findings which were the result of those errors must necessarily be disapproved, and there is no evidence to be found therein incompatible with the absolute innocence of the accused, no reasonable ground exlets for subjecting him to another trial."

Capt. Carter, when seen at the New York Athletic Club in this city yesterday, declined to say anything with regard to Mr. McVeagh's statement of his case. "I can only say that I am absolutely innocent of all the charges that have ever been brought against me.'

BONHAM'S SUDDEN PROPOSAL. Challenged by Flancke He and Miss Pools

Sherman Bonham, who is employed in the office of City Collector Robert Davis, of Jersey City, and is recognized as the best dressed of all the young men in the City Hall, was mar ried there at short notice on Saturday to Miss Margaret Poole of 442 Bergen avenue. Miss Poole is twenty years old, and one of the prettiest girls on the hill. She and Bonham were friends, but had not met for a year until Saturday. Bonham had just started on his vacation and he and his friend Edward Flancke were at the Pennsylvania railroad depot in Jersey City waiting for a train when they saw Miss Poole. After a few minutes conversation Miss Poole consented to accompany the young men to a theatre matines performance. The matinee was followed by a supper at a restaurant. During the supper Benham assured Miss Poole that he had always thought a great deal of her and she declared that she had admired him from the very first

time she met him. Flancke, who was practically ignored, became weary of the spooning and remarked: 'If you two think so much of each other why lon't you get married?"

The suggestion struck Bonham as being a good one, and he at once proposed to the young woman. She accepted him, and the party went to the office of Justice of the Peace Duffy n Jersey City. Justice Duffy always takes his matrimonial clients to the Pennsylvania House, adjoining his office. He escorted the party there and united Bonham and Miss Poole in The parents of the young people marriage. have not forgiven them yet, but it is expected that they will.

WILL TOAST NEW YORK'S MAYOR. This Country Will Be Remembered at the

Colonial Day Dinner in London. Frank Blackley, who will preside at a dinner to be given on Colonial Day, Sept. 7, at Inns of Court Hotel, London, in honor of the Australian Federation, at which the Australian Cricket Team now in London is to be present, has written to Acting Mayor Guggenheimer announcing that the health of the Mayor of New York will be drunk by the diners, Mr. Blackley also announces that the Australian cricket team and Prince Ranjitsihnji, the famous player, will visit the United States. In acknowledging the receipt of the letter and the compliment to be paid to the Mayor, Mr. Guggen-

heimer has written a letter, in which he says: "The friendly international contest between the two great English-speaking families has a tendency to bind together our two nations with a bond that is stronger and more coherent than any international treaty. I have therefore attached great importance to the amicable teams representing English and American uni-

versities. 'International sports, in the proper sense of the term, are the distinguishing feature of Anglo-Saxon life. Such contests, therefore, in athletics between the universities of England and America have always excited the livellest interest among English-speaking people on both sides of the Atlantic. Their continuance and growth will be an accurate register of national inter-relations. They will constitute an unseverable bond of good will between the two branches of that great race whose influence is destined to spread throughout the entire world."

FIRRCE HEAT IN TEXAS.

Official Record for the Last Nine Days From 104 to 106 Degrees.

DALLAS, Tex., Aug. 28.-Y. A. Eisenlohr, vol nteer observer for the United States Department of Agriculture, furnishes a nine-day weather report this evening which is a recordbreaker for Northern Texas so far as heat is ncerned. The readings were recorded from a thermometer in the coolest part of a large building, where no reflected heat could af-. In shaded places a few feet dis-but where the effects of refeet it. floated heat were felt, the readings were six or seven degrees higher than the following official readings; Sunday, Aug. 20, 104 degrees; Monday, Aug. 21, 105 degrees; Tuesday, Aug. 22, 105 degrees; Wednesday, Aug. 23, 104 degrees; Thursday, Aug. 24, 104 degrees; Friday, Aug. 25, 100 degrees; Saturday, Aug. 26, 105 degrees; Sunday, Aug. 27, 106 degrees: Monday, Aug. 28, 105 degrees.

The drought in Northern and Central Texas continues. Thirty-seven days have passed since there was anything approaching a good rain in the cotton districts mentioned. Cotton is suffering generally. Good rains are reported to-day at Texarkana, Longview and Houston, but these places are only on the edge of the Texas cotton belt.

DROWNED IN FORDING A STREAM. Tragic Death of a Girl and Her Escort in Beech Fort River, Ky.

LOUISVILLE, Ky., Aug. 28.-Mrs. Ellen B. Jenkins of this city received a telegram this morning, announcing the drowning of Miss Rose Jenkins, her 16-year-old daughter, at Cox's Ford on the Beech Fork River, near Bo ton, Kr. Daniel Langsford of Boston perished with her. According to the information received here, Miss Jenkins, who had been visiting in Boston for several weeks, left that place yesterday morning with Langsford to spend the day with some friends. They crossed the ford in the morning, but the water rose during the day and on their return poured in over the buggy seat and carried them away.

ALL OUT FOR THE ADMIRAL MEN FROM MANY STATES WANT TO PARADE IN DEWEY'S HONOR,

The Navy Department Arranging to Send as Many Warships as Possible Here to Have a Part in the Welcome Which is to

Be First and Foremost a Naval One. With the return of Maj.-Gen. Charles F. Ros who has been out of town for several days, the work of preparation for the recention of Admiral Dewey went on yesterday with renewed vigor. The affairs of the committee who are planning the reception have been more or less hampered all the time by the lack of knowledge as to essential details, and every time the Chairman of a committee brings to the headquarters of the Committee on Plan and Scope some definite infor mation or the announcement that at last somparticular thing has been settled upon, th tangle becomes just so much less. Gen. Ros has had charge of the arrangements for the land parade, and he has been busy ever sine was charged with that part of the programme. Yesterday when he returned to his office, Gen. Ros announced the route of the parade, thus settling that point once for all.

'The parade will form," he said, "in the icinity of 122d street and the North River, in the side street and on the avenues in that see The troops will march down Riverside Drive to Seventy-second street, then over to Broadway, down Broadway to Fifty-seventh street, through Fifty-seventh street to Fifth avenue and down Fifth avenue to Washington square. The parade will break up on the south side of Washington square. The reviewing stand, where Admiral Dewey will review the parade, is to be, as was already practically de ided upon, at Madison square,

'It is intended to start the parade after 12 lock noon, probably about I o'clock. There will probably be about 28,000 men in line, and as it will take a parade of that size about three or four hours to pass a given point, it will be late in the day, probably 6 or 7 o'clock in the evening when the last organization in line passes through Washington square.

'As to the exact number of troops that wil march, and the make-up of the parade, I can not make any definite statement at present The whole body of the National Guard will o ourse be in line, and that division alone wil furnish 15,000 men. We have only money enough, roughly speaking, to take care o about 5,000 troops from outside States. You can see that the New Jersey troops will have o come only a short distance, and they can ray their own expenses here in the city. I ansylvania, however, sends a brigade, as she wishes to do, the city would have to pay for the intertainment of her troops.

"On Grant Day in 1897 we had, as I remember it, some 10,000 treops here for a period of from three to five days, and it cost \$50,000 for the subsistence of those men. Now the most of these troops will have to be here for two days at least, or they ought to be. Rhode Island says she can bring her troops here on Saturday morning in time for the parade and that will probably be her plan. But that State is an exception to the general rule, as can easily be seen. I intend to arrange matters so that all of the New York State regiments and organizations can be brought here in time to witness the water parade on Friday. That, I think, is due to our National Guardsme

"The Fifth Maryland Regiment says that I will come surely. A cadet corps from Washington, D. C., wishes to attend, and four or five ompanies from Texas want to be here to joir the rest. Georgia hopes to send eight companies. Rhode Island wants to send four companies. Ohio, I have heard, wishes to send he whole National Guard, which comprises, I think, about 4,000 men. Florida also wishes to be represented. The great difficulty in other States has been that there are no funds avail able for the transportation of troops, and the expenses of sending the soldiers to New York will have to be defrayed by private subscription. This was because the State Legislatures were not in session when the celebration was planned. That has been agreat drawback in getting representations from other States. I have calculated, however, that if other States are represented as they have signified their desire to be, we should have from 10,000 to 15,000 outside troops here. It must be remembered that a company, as a general thing, in an outside State, usually has only about fifty mer iti it.

"We have not heard from Massachusetts vet and we don't know what she intends to do. ont will have a celebration of her ow The regiments from the outside States will be quartered in halls and armories in the city, and it will be possible to accommodate, I think, all that will come here

The parade will be in honor of the Admiral. and the day will, therefore, be a navaiday. The Navy will accordingly have the right of line in the parade. Then will come, of course, the troops from the regular army, of which we shall have, I am confident, a large representation from the neighboring forts. The National Guard of the State of New York will follow the regulars and the other States will come after that. We have not yet decided upon the order in which the troops from other States shall appear, but that point will be settled later, possibly by the order of seniority of the States, according to their admission to the Union." Gen. Roe was asked if he thought it possible

r fensible for a private subscription to be raised for the maintenance of troops, in order that other States might be well represented. "That is something I cannot answer," he replied. "it is a question for the Committee or Plan and Scope. I have expressed already my opinion on the inadequacy of the money at our

disposal for that purpose. Gen. Roe said that he had had a long talk with Gen. Butterfield at Cold Spring, on Sun day, about matters pertaining to the reception of Admiral Dewey. He said that he had found Gen. Butterfield in much better condition than he had expected to see him in, and that tien. Butterfield was desirous of getting back to New York to carry on his work as Chairman

f the Reception Committee. Many inquiries have been made at the Cit Hall lately as to the route of the land parade, and much interest has been shown by people living or owning stores along the streets where t has been expected the procession would pass. Nearly every one of the inquirers has announced his determination to decorate residence or store, Secretary Foster said yesterday that without doubt the line of march would be brilliantly decorated all the way from 122d street to Washington square.

"Everybody who comes here," he said shows a desire to do something that will make the reception of the Admiral a great one. Every committee is doing a lot of work and we are gutting things where we want them. Mr. Foster said that as yet only two bands had actually been engaged for the land parade. These were Fanciulli's Seventy-first Regiment band and Bayne's Sixty-ninth Regiment band. He said that Shannon's Twenty-third Regiment band from Brooklyn would also probably

be engaged. "You see," he said, "all the visiting milltary organizations will bring their own bands. There will be enough music in the parade, never fear."

C. H. Barney, a representative of Gov. Elisha Dyer of libode Island, called at the City Hall yesterday and asked for information as to the ecommodations that would be given to the lthode Island troops. He said that the Governor with his staff and chief executive officers and a battalion of the State troops intended to participate in the welcome to the Admiral Secretary Foster said that he was taking me interest in the suggestion that the arch at Madison Square should be made permanent.

"I can't speak for the rest of the committee." he said, "but it seems to me personally that we had better not come to any decision until the temporary arch is in position and the people have had a chance to see how it looks. The plan to make it permanent is a magnificent project, and I should like to see it carried

The work in the Madison Square Garden and in the enclosure at Madison square opposite at a grade into the Fifth Avenue Hotel went on yesterday centrally located.

without interruption. The sculptors and the modellers who are working under their direc tion are doing all that they can to have their part of the welcome to the Admiral an unqualified success. The men are actually working several hours over time every day, in their en thusiasm. They get to the workshop in the basement of the Garden every morning. Sundays included, as early as there is enough light for them to carry on their work, and they work in the dust and dirt of the plaster as long as the sun gives them its light. Car Beil, who is personally superintending the work at the Garden, said yesterday that he had

twenty-four men working under him. "On Thursday," he said, "we shall have double numbers here. By to-morrow night we shall have the statues of Perry, Porter, and Decatur completed, and that of Cushing will take only a day longer. In two weeks we shall have every statue ready for its place on the We are working early and late, and we shall have everything done on time. We haven't begun the arch which is to stand at Montague Terrace, in Brooklyn, but as that will be made smaller than the one we are now working on, we shall be able to finish it in two weeks' work."

The workmen inside the enclosure in Madison square had yesterday carried on their work on the arch so far that four of the pier foundations were thirty feet up in the air. The work has attracted much attention from people who pass along Broadway at that point, and the policemen who stand guard at the big gates in the wood fence are kept busy answer ing questions.

The Glee Club, composed of men working in banks in the city, has offered its services to the mmittee in charge of the celebration. Carroll has not decided what to do with this and other offers from singing societies and gies clubs that have come before the Committee on Music and Fireworks. Some of them will probably be asked to sing at the City Hail stand, in connection with the exercises surcounding the presentation of the loving cup to the Admiral.

Word was received at the City Hall yesterday that the Virginia Naval Reserves had decided o attend the celebration and would arrive in the harbor on Sept. 29, on the torpedo boat destroyer Siren. They have asked for a place in the naval parade.

WARSHIPS COMING TO TAKE PART. The Government Hastening Work on Ves-

sels at Boston and Portsmouth. WASHINGTON, Aug. 28-As many warships now under repairs as can be made ready in time will be sent to New York to participate in the naval demonstration in honor of Admiral Dowey. Orders have been sent by the Navy Department to the Commandant of the Boston navy yard to have the work expedited on the Bancroft, Marietta, Topeka, Nashville, Vicksburg and Osceols so that they will be ready to take part in the navel parade. The Depart ment also hopes to have the captured Spanish gunboats Alvarado and Sandoval put in sea-going condition in time to be in New York on Sept. 28. These two vessels are now at Ports mouth, N. H. The Department has decided that too much risk would attend the towing of the frigate Constitution from Boston to New York, and the famous old ship will therefore not be present at the Dewey ceremonies.

Capt. Robley D. Evans, who went to New York to consult with the Dewey Reception Committee as a representative of the Navy Department, returned to Washington to-day and had an interview with Acting Secretary of the Navy Allen. Capt. Evans arranged with the New York committee that the Dewey reception should be a navai affair throughout, even in respect of the land parade. The blue jackets from the Olympia are to act as a guard of honor to Admiral Dewey, and will have the right of the line. Directly after them will come the blue jackets and marines of the North Atlantic squadron.

The purely military features of the parade will come after the naval contingent. It was arranged also by Capt. Evans, under Instructions from the Navy Department, that Admiral Sampson's squadron should meet the Olympia at Tompkinsville, Staten Island, and not out A space four hundred yards wide will be kept clear in New York Bay for the naval

If Admiral Howison's flagship, the cruiser Chicago, should arrive at New York in time to participate in the ceremonies on Sept. 28, here may be some embarrassment over the fact that Admiral Howison is senior to Admiral Sampson, and would, by virtue of his sentority, have command of all the United States vessels assembled to meet the Olympia. The Chicago is due at Tompkinsville on Oct. 1, but it is thought at the Navy Department that Admira Howison may curtail his itinerary a few days in order to be present there when the Olympia arrives.

The Chicago May Be Here to Greet Dewey WASHINGTON, Aug. 28,-Rear Admiral Howlson's flagship, the Chicago, arrived at Rio de Janeiro on Saturday from Cape Town, She will visit other ports in South America, and then start northward in time to reach New York by Oct. 1. It is probable that she will get to New York a few days ahead of schedule time in order to be present at the reception to the Olympla and Admiral Dewey.

Norfolk Wants a Naval Show.

NORFOLE, Va., Aug. 28.-The Norfolk Board of Trade and Business Men's Association today appointed a committee to go to Washington and ask the Navy Department to order the Olympia, Dewey's flagship, and other available warships to rendezvous in this harbor Oct. 3, when the Virginia State Fair will open.

FIRE CUT OFF TICKER SERVICE.

Shops Suffered by a Subway Blaze.

An explosion and fire in an electrical subway at Exchange place and Broadway, at 8:30 o'clock yesterday morning, damaged three cables filled with wires belonging to the Gold and Stock Telegraph Company and cut off the ticker service from more than e hundred of that company's customers. Nearly all of the injured wires ran to brokers offices uptown. Those that did run downtown happened, most of them, to run to the New street bucket shops, so that few of the more important brokerage offices in the city were affected. By noon new connections had been made for the downtown tickers, and the whole damage, it is expected, will be repaired before

business begins this morning. The fire is supposed to have originated, as others of the same sort have, from an electric spark setting off the gas which gradually accumulates in the subways, except where an air-pump service drives it out. It continued burning for about an hour after it was discovered.

There were three ninety-one wire caples in the subway, and one of these was burned completely off, while the others were injured. One of the wires led to the Consolidated Exchange, and its severing cut off all of the tickers on the floor there, but the official tickers were not disturbed. At the bucket shops and exchanges where quotations are posted, those whose ticker service was cut off had either to shut off their quotations or resort to the constant use of the telephone.

CENTRAL'S PLANS IN STRACUSE.

President Calloway Proposes a Scheme to Abolish Grade Crossings.

SYRACUSE, Aug. 28 .- Mayor McGuire has re ceived a letter from President S. R. Calloway. of the New York Central, asking the city to make a proposition for the purchase of the new passenger station of the road in this city. in furtherance of a plan to abolish grade crossings. It has been proposed that the city buy the railroad station for a public library building, in the event of the abolition of grade erossings. A new station would have to be built in the northern part of the city, as it is found impracticable to conduct the road except at a grade into the present station, which is GAS WAR LAWSUIT FAILS.

STOCKHOLDER CAN'T INSPECT NEW AMSTERDAM CO.'N BOOKS.

ien. Pierson Had Based His Motion on the Fact That Gas Was Being Sold for 50 Cents-He Thought This Ruinous and Wanted a Receiver-The Court Says No

Gen. J. Frederick Pierson's motion for peralssion to inspect the books and papers of the New Amsterdam Gas Company so as to ascertain if it is losing money by selling fifty cent gas, and if so to have a receiver appointed, has been desied by Justice McAdam of the Subreme Court. While it was denied that Gen. Plerson was setting in concert with other persons who wish to end the gas war, the decision will quiet the reports that peace can be brought about by litigation of this kind.

Gen. Pierson, who moved as a stockholder, has \$15,000 of consolidated gold bonds of the ompany and seventy-five shares of the pre ferred stock. The company was organized early in 1808 by the consolidation of the Equitable. New York and East River and the New Amsterdam gas companies with \$10,000,000 in preferred and \$13,000,000 in common stock erson had exchanged securities which he held in the Equitable for those in the combined ompany. The Justice says that as a bond holder he would have no right to an inspection, but as a stockholder he could inspect in a proper case. The Justice says further: "The writ of mandamus does not issue here

in as a matter of course. It is an extraordinary remedy to be invoked only upon specia easions. The Courts do not grant the mandamus until they have taken into consideration all the facts and circumstances of the case. The condition and character of the books, the reasons for refusal by the corporation, the specific purposes of the stockholders in demanding inspection, the general reasonableness of the request, and the effect on the orderly transaction of the corporate usiness in case it is granted, are considered in granting or refusing the writ. I is only granted in furtherance of essential justice. \* \* To hold that every person who shows himself to be a holder of stock is at liberty to demand an examination of the antire corporate books and records by accountants selected by him, when and as often as he pleases, and if refused to apply for a writ of mandamus to enforce such right, would be to establish a rule highly prejudicial to the interests of all corporations and their stockholders.

"The gravamen of the petition is that beeause the company has reduced the price o gas from \$1.10 to fifty cents per thousand cuble feet, no dividend has been declared on the stock since April, 1898, and that the patitioner has been paid merely five per cent. on the consolidated bonds since that time that this condition of affairs is caused by the directors involving the company in a gas war that the petitioner believes that the company is selling gas below its cost, and that without an examination of the books he cannot tell from what source the company de rives its money to pay its fixed charges its capital or from The answering affidavits show, what is notorious fact, that since May 1, 1899 there has been a war among the companies supplying gas in the borough of hattan; that the reduction made by the re spondent was necessary to enable it to compete with its rivals; and they deny the allega tion of the petitioner that long term contracts for supplying gas at the reduced rate have been made by the company. These affidavits also show that at the time of consolidation and even since there have been in the borough of Manhattan four companies supplying illuminating gas to the inhabitants thereof, to wit; the Consolidated Company, the Standard Company, the Mutual Company and the respondent; that the pipes of the companies have and do parallel each other in many places throughout the borough, and that said companies are in active competition, a condition that has proved highly beneficial to the general public and demonstrated that, for the public, rivalry

is better than monopoly. "It clearly appears that the Consolidated Company was the first to cut the rate, after which its agents carried on a canvass for the patronage of the respondent, many of whose cus tomers were induced to go with the cut rate ompany, so that the respondent, to retain its business for the benefit of its stockholders. was obliged in self defence to cut rates also. and this act constitutes the main grievance of the petitioner, and the head and front of the respondent's offending. According to ordinary business methods, the respondent met the attack by adopting the only course wise management could suggest. The petitioner fears that the respondent cannot sell gas at fifty cents per 1,000 cubic feet, and may in conequence have to go into insolvency and, per-

haps, into the hands of a receiver. There seems to be nothing to justify these fears. The petitioner has not furnished any proof by experts that gas cannot be profitably sold at a reduced price, and the fact that competing company is able to furnish it aimost as low and pay dividends would seem to prove that there is still a margin of profit left. At all events, the tioner's fears standing alone do not entitle him to go with accountants into the business place of the respondent, there to rummage over the respondent's books and records since its incorporation, to ascertain the cost of gas, a fact that can easily be ascertained in a much more simple and practical way upon application to any gas expert. No information contained in the books would aid in settling the gas war. which must like many of the cut rate wars of

the past adjust itself. "The Consolidated Company was in this instance the aggressor, and, if it erred, the responsibility rests with it, and cannot be shifted upon the respondent, for it is in no manner accountable for the condition by which it was confronted. \* \* \* The consolidation occurred only fifteen months ago, and since then the peritioner's holdings have not depreciated; on the contrary it is undisputed that they are worth \$975 more than at the time the consolidation was effected, a result which ought to be accepted as the best test of good management. Interest has been regularly paid on the bonded debt, and the question when a dividend is to be paid on the stock is one resting largely in the discretion of the board of managers, "The petitioner as the owner of seventy-five

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shares of the preferred stock is the holder of but about one-thirtleth of 1 per cent of the capital stock of the company, and the owners of all the other shares seem perfectly content with the management of the company's interests, a circumstance at once significant and o weight. While there can be no doubt as to the power of the Court to grant in a proper case relief of the character sought, proceeding cauliously and discreetly according to the facts of the case the application must be denied.

TWO ANGEL DANCERS BAILED. Frederick P. Van Riper Gives the Bonds

and Discredits Accusations. HACKENSACK, N. J., Aug. 28.-Frederick P. Van Riper, one of the wealthiest farmers in Bergen county, whose large posses-sions are near the "Lord's Farm," at Woodeliff, came to Hackensack this

ing and offered to go bail for Mason T Huntsman and his three associates, who were arrested on Saturday night. This offer was accepted by Justice Cumming in the cases of John McClintock and Mary Storms, charges of keeping a disorderly house, the two being released on \$500 ball each. Hunts man and Storms, who are also charged with the more serious crime of assaulting the two Lamb children, are held for the appearance of County Judge Zabriskie, who is absent.

Mr. Van Riper says the Lord's Farm people re working his farm. He considers that they are being persecuted, as he declares them to be the most industrious and moral people in the neighborhood. He emphatically declared to-day in the presence of the Presecutor of the Pleas, that Mrs. Lamb, the mother of the two girls, who told that she submitted to certain indignities, was of irresponsible mind, and he said that no evidence had been adduced from her two daughters to show that they had been the victims of Huntsman and Garrot Storms as alleged. Their neighbors generally discredit the story of Mrs. Lamb.

NEXT YEAR'S WHINKEY OUTPUT. Distilleries Company on the Recent Cor

ferences With the Independents. The Distilleries Company of America athorized the publication yesterday of the following rather enigmatical statement regarding its recent conferences with the independent distillers as to a proposed limitation of the output for the coming year.

"The proposition of the independent distilers' committee, requesting an equal division of the 18,000,000 gallons production for the season of 1896-1900, is not to be considered by the Distilleries Company It is the policy of the latter company to permit the independent distillers to make all the profit they can and not to interfere with their business. Further negotiations would be considered in the general interests of the trade, but the Distilleries Company finds it absolutely impossible to make any agreement, as it would be in direct conflict with the Kentucky Anti-Trust laws, which are particularly stringent."

This was taken in Wall street to mean that an agreement had been reached, but that it would not be advisable to acknowledge the

RAMAPO PLANS UP THE STATE. Maps of Proposed Reservoirs Filed in Al bany County.

ALBANY, Aug. 28.—The Ramapo Water Com pany apparently is planning to extend its business into many parts of the State, among them Albany County.

About four months ago the company filed in the County Clerk's office three maps of proposed reservoirs for this county. Map No. 150 shows a reservoir in the towns on Coeymans and New Baltimore, In Albany and Greene counties respectively The reservoir, it is shown, may be filled by the waters of Hannacrois Creek, and may be 1,000 feet long by 225 feet wide. Map No. 152 is of a reservoir in the town of Coermans, and map No. 154 is of a reservoir in the town of Bethlehem. The maps are signed by 8. B. Dutcher, president, and P. Elbert Nos trand, chief engineer. It is reported that i the company gets a foothold in this county, it will guarantee to furnish water to Cocymans. New Baltimore, Albany and surrounding places.

CITY OWNS A HOTEL,

Its Present Occupant Haen't Paid Any

Rent-A Queer Discovery. An examination of the records in the Comptroller's office has brought to light the fact that the city owns the Grand Union Hotel at Coney Island, and has for five years, although no ren has ever been paid by the present occupant. The property is valued at \$25,000, and is occupled by Alexander R. Samuels. It became the property of John Y. McKane in 1888. In 1884 it was offered for sale on account of non-pay ment of taxes, and the title passed to the

Comptroller Coler has demanded back rent from Samuels, who has placed the matter in the hands of counsel and will resist the claim.

Queens Officials Wanted Before the Mazet Committee.

Subpornas were served yesterday by agents of the Mazet Committee on Under Sheriff William Methyen of Queens county, Clerk Daniel Underhill and Detective James Downing of the Queens county District Attorney's office, to appear as witnesses before the committee. The officers who served the subpoppas were looking for Sheriff William Cas Baker and District Attorney Davison to sumon them also before the Mazet Committee, but both were out of town.

The Kaltenborn Concert To-night. At the fourth Symphony night of the Kni-

tenborn concerts this evening, Mozart's "Juniter" symphony will be played. It is to be hoped that Bandmaster Kaltenborn will hold the brasses in check as their preponderance interfered seriously with the performance of the Beethoven symphony last week. The fiftyeighth birthday of Antonia Dvorak will be delivered on Sept. 8, at the St. Nicholas Garden by a special programme made up of his works

Real Estate Properties City and Country advertised in THE SUN implies the shortest route to a satisfactory disposal of it. No better indorsement of THE SUN as a real estate medium need be required than the Real Estate Board of Brokers, who make use of it as a news and advertising medium.—dus. MAIL SWINDLER ARRAIGNED.

imith Operated, it Is Alleged, With Conspirators in Chicago and This City.

I'. M. Smith, an alleged credit swindler, who easurrested on Aug. 17 by Detectives Perperted. and Met'onville, was arraigned before United States Commissioner Alexander yesterday, the authorities having decided that as Smith used the mails in his peculiar business transactions a clear case might by presented against him on a charge of violating the postal laws. The complaint against Smith is made by Post Office Inspector Joe D. Farrell of Chicago, who accused the prisoner of conspiring with Samuel Davider and others in forming the Northera Supply Company of Chicago for fraudulent purposes and of using the mails in carrying out such purposes. Post Office Inspector Sut-ton, who arraigned Smith, said that after the Northern Supply Company was formed, Smith came here and formed the News York Export and Import Company, the Novelty Manufac-turing Company, both of 122 West Twentythird street, and the Metropolian Biesele Company of 281 Fifth avenue, and that Davidor would refer to these companies when ordering goods from concerns. Smith took the names of substantial business firms who have high ratings in the mercantile agency reports, and when Smith endorsed Davidor to the latter's correspondents the alleged swindlers usually got the goods. Smith is charged with mailing a letter on May 20 to Pomeroy Bros. & 'o., ink and mucilage manufacturers, of Harrison. N. J., which firm subsequently lost goods to the value of \$55.13 which they forwarded to Davidor on orders. Smith's examination was set down for Sept. 7.

VACCINATION IS COMPULSORY.

Public Schools of Brooklyn, Richmond and

Queens to Re Closed H Necessary, ALBANY, Aug. 28.-The State Board of Health officials to-day declare that unless boards of education of the boroughs of Brooklyn, Richmend and Queens comply with section 200 of the State Health Law, which provides for the vaccination of all school children, there is every reason to believe that the public schools in those boroughs will be closed. A letter regived to-day by the State Board of Health from the health authorities of New York city announces that the recent circular letter of the State Board on the subject of vaccination had been received and published throughout the boroughs of Manhattan and Brooklyn, and that active work was being done in the borough of Manhattan to comply with the law. but in the other boroughs little or nothing has

been done. The local authorities asked if they would be supported by the State Board in enforcing the law, and a reply was sent that the law was mandatory in its provisions, and that the State authorities would back them up in the matter even to the extent of closing the schools if

violations should occur ARRESTRO IN HIS PULPIT.

A Tennessee Preacher Accused of Making

Moonshine Whiskey. CRATTANOGA, Tenn., Aug. 28.-A United States marshal this morning arrived here with Rev. Thomas J. Payne, a venerable Baptist minister of Benton, Polk County. Mr. Payne was arrested yesterday in his pulpit, charged with making moonshine whiskey. His congregation held an indignation meeting that he should have been arrested for such a little thing.

Perth Amboy Again Has a Bank

PERTH AMBOY, N. J., Aug. 28.-The First No. tional Bank of Perth Amboy opened this morning at nine o'clock. Hamilton Fish Keam president of the bank, and Senator John Kean were on hand nearly all day. For the first time. since July 14, the date of the failure of the Middlesex County Bank, the people of this city have banking facilities without the necessity of going out of town for them. Up to neon out forty accounts were opened. Consider-

## LITTLE BABY'S

able relief is already felt in business circles.

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a Sign Left to Tell of His Awful Sufferings. My haby had a terrible breaking out all over his

face and head, extending bull way down his back, while his arm became one tolld, easy, bleeding sore. A physician gave me a prescription which I used, but he kept getting worse, and suffered beyond description. The pain became so intense that he had to be put under quates. We could get no rest, night or day. He dwardled down to a mere skeleton. Everybody who saw him said he would surely die. As a last resort atrip to the country was suggested, that the change of air might do him good. As soon asmy mother saw the child she got a copy of an Atlanta paper, in which there was an account of a wonslerful ours Cura una Ramanica had wrought or a two year old chief. My father started to the mearest drug store, which was five miles, and purchased Cutterns comments, Cutterns Sear, and Cutterns Resouvent. We applied as per directions putting plenty of the Curreum on his head, face, arm, and back. The child stont for over two hours that night, improved daily, and in more weeks from the time he started on the Corners at Engelies we were able ontrove their ties, and not a sign is left to tell of his swful and ring-

Mas, ROBERTA DAVIS, Aug. 20, 1808. South Atlanta, Ga.

Steps for Sain-Torrusco Basics and Rest for Their Mothers in a warm task with Contours Soar, and a single application of Contours to intensit, greatest of smollishins and skin cures. This treat-ment will give instant relief, permit rest for parent and sleep for child, and point to a speedy regma-nent, and economical cure of the most torturing, disfiguring, and humilisting of the hing, burning, bleeding, scaly, plumpt, and crusted skin and scalp humors with loss of hair, when all classfalls.

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